

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2455

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 8-304, Arizona Revised Statutes, is amended to
3 read:

4 8-304. Investigation of alleged acts of delinquency, dependency,
5 and incorrigibility

6 A. The law enforcement officer having jurisdiction in the place in
7 which an act of delinquency or incorrigibility is alleged to have occurred
8 shall have the responsibility for the complete investigation surrounding the
9 alleged commission of the act.

10 B. A child protective services specialist of the department shall have
11 the responsibility for the complete investigation of all complaints of
12 alleged dependency, and ~~an extremely serious~~ A CRIMINAL conduct allegation
13 shall be investigated in cooperation with the appropriate law enforcement
14 agencies and according to the protocols established pursuant to section
15 8-817. The department shall be responsible for the disposition of such child
16 unless the matter requires the intervention of the court. For the purposes
17 of this subsection, "~~extremely serious~~ CRIMINAL conduct allegation" has the
18 same meaning prescribed in section 8-801.

19 Sec. 2. Section 8-541, Arizona Revised Statutes, is amended to read:

20 8-541. Records; inspection; exception

21 A. All files, records, reports and other papers compiled in accord
22 with this article, whether filed in or in possession of the court, a child
23 placement agency or other agency or association, ~~shall be withheld from~~
24 ~~public inspection~~ ARE SUBJECT TO DISCLOSURE PURSUANT TO SECTION 8-807.

25 ~~B. Such files, records, reports and other papers may be open to~~
26 ~~inspection by persons and agencies having a legitimate interest in the case~~

1 ~~and their attorneys and by other persons and agencies having a legitimate~~
2 ~~interest in the protection, welfare or treatment of the child if so ordered~~
3 ~~by the court.~~

4 ~~C. B. The provisions of~~ This section ~~shall~~ DOES not ~~be construed to~~
5 prohibit persons employed by the court, the division or a licensed child
6 welfare agency from conducting the investigations or performing other duties
7 pursuant to this article and done within the normal course of their
8 employment.

9 Sec. 3. Section 8-542, Arizona Revised Statutes, is amended to read:

10 8-542. Confidentiality of information; violation; classification

11 A. It is unlawful, except for purposes for which files and records or
12 social records or parts ~~thereof~~ OF or information ~~therefrom~~ FROM FILES AND
13 RECORDS OR SOCIAL RECORDS have been released pursuant to section 8-541, or
14 except for purposes permitted by order of the court, for any person to
15 knowingly disclose, receive or make use of, or authorize, knowingly permit,
16 participate in or acquiesce in the use of, any information involved in any
17 proceeding under this article directly or indirectly derived from the files,
18 records, reports or other papers compiled pursuant to this article, or
19 acquired in the course of the performance of official duties.

20 B. A person who knowingly discloses information in violation of ~~the~~
21 ~~provisions of~~ this section ~~or section 8-541~~ is guilty of a class 2
22 misdemeanor.

23 ~~C. The provisions of~~ This section ~~shall~~ DOES not ~~be construed to~~
24 prohibit persons employed by the court, the division or ~~an~~ A LICENSED CHILD
25 WELFARE agency from conducting the investigations or performing other duties
26 pursuant to this article and done within the normal course of their
27 employment.

28 Sec. 4. Section 8-800, Arizona Revised Statutes, is amended to read:

29 8-800. Purpose of child protective services

30 A. The primary purposes of child protective services are to protect
31 children by investigating allegations of abuse and neglect, promoting the
32 well-being of the child in a permanent home and coordinating services to

1 strengthen the family and prevent, intervene in and treat abuse and neglect
2 of children.

3 B. IN INSTANCES OF ALLEGATIONS OF CRIMINAL CONDUCT AGAINST A CHILD
4 PERPETRATED BY A PARENT, GUARDIAN OR CUSTODIAN, CHILD PROTECTIVE SERVICES
5 SHALL ENSURE THAT THE RIGHTS OF A CHILD VICTIM OF CRIME ARE PROTECTED AND
6 PRESERVED, AS APPLICABLE, PURSUANT TO ARTICLE II, SECTION 2.1, CONSTITUTION
7 OF ARIZONA, AND SECTION 8-817.

8 Sec. 5. Section 8-801, Arizona Revised Statutes, is amended to read:
9 8-801. Definitions

10 In this chapter, unless the context otherwise requires:

11 1. "Child protective services worker" or "worker" means a person who
12 has been selected by and trained under the requirements prescribed by the
13 department and who assists in carrying out the provisions of this article.

14 2. "~~Extremely serious~~ CRIMINAL conduct allegation" means an allegation
15 of conduct by a parent, guardian or custodian of a child that, if true, would
16 constitute any of the following:

17 (a) A violation of section 13-3623 involving child abuse.

18 (b) A felony offense that constitutes domestic violence as defined in
19 section 13-3601.

20 (c) A violation of section 13-1404 or 13-1406 involving a minor.

21 (d) A violation of section 13-1405, 13-1410 or 13-1417.

22 (e) Any other act of abuse that is classified as a felony.

23 3. "In-home intervention" means a program of services provided
24 pursuant to article 7 of this chapter while the child is still in the custody
25 of the parent, guardian or custodian.

26 4. "Protective services" means a specialized child welfare program
27 that is administered by the department as provided in this chapter and that
28 investigates allegations of and seeks to prevent, intervene in and treat
29 abuse and neglect, to promote the well-being of the child in a permanent home
30 and to coordinate services to strengthen the family.

1 Sec. 6. Section 8-802, Arizona Revised Statutes, is amended to read:

2 8-802. Child protective services worker; fingerprint clearance
3 cards; powers and duties; alteration of files;
4 violation; classification

5 A. The department of economic security shall employ child protective
6 services workers. All persons who are employed as child protective services
7 workers shall have a valid fingerprint clearance card that is issued pursuant
8 to title 41, chapter 12, article 3.1 or shall apply for a fingerprint
9 clearance card within seven working days of employment. A child protective
10 services worker shall certify on forms that are provided by the department of
11 economic security and that are notarized whether the worker is awaiting trial
12 on or has ever been convicted of any of the criminal offenses listed in
13 section 41-1758.03, subsections B and C in this state or similar offenses in
14 another state or jurisdiction.

15 B. The department may cooperate with county agencies and community
16 social services agencies to achieve the purposes of this ~~section~~ CHAPTER.

17 C. A child protective services worker shall:

18 1. Promote the safety and protection of children.

19 2. ~~RECEIVE FROM ANY SOURCE ORAL OR WRITTEN INFORMATION REGARDING A~~
20 ~~CHILD WHO MAY BE IN NEED OF PROTECTIVE SERVICES.~~

21 ~~2.~~ 3. Accept, screen and assess reports of abuse or neglect pursuant
22 to section 8-817.

23 ~~3.~~ 4. Receive reports of dependent, abused or abandoned children and
24 be prepared to provide temporary foster care for such children on a
25 twenty-four hour basis.

26 ~~4.~~ 5. Receive from any source oral or written information regarding a
27 child who may be in need of protective services. A worker shall not
28 interview a child without the prior written consent of the parent, guardian
29 or custodian of the child unless either:

1 (a) The child initiates contact with the worker.

2 (b) The child who is interviewed is the subject of or is the sibling
3 of or living with the child who is the subject of an abuse or abandonment
4 investigation pursuant to paragraph 5, subdivision (b) of this subsection.

5 (c) THE INTERVIEW IS CONDUCTED PURSUANT TO THE TERMS OF THE PROTOCOLS
6 ESTABLISHED PURSUANT TO SECTION 8-817.

7 ~~5-~~ 6. After the receipt of any report or information pursuant to
8 paragraph 2, 3 or 4 of this subsection, immediately do both of the following:

9 (a) Notify the municipal or county law enforcement agency.

10 (b) Make a prompt and thorough investigation of the nature, extent and
11 cause of any condition that would tend to support or refute the allegation
12 that the child should be adjudicated dependent and the name, age and
13 condition of other children in the home. ~~An extremely serious~~ A CRIMINAL
14 conduct allegation shall be investigated according to the protocols
15 established pursuant to section 8-817 with the appropriate municipal or
16 county law enforcement agency as provided in section 8-817 AND THE RIGHTS OF
17 ANY CHILD VICTIM OF CRIME SHALL BE PROTECTED, AS APPLICABLE, PURSUANT TO
18 ARTICLE II, SECTION 2.1, CONSTITUTION OF ARIZONA.

19 ~~6-~~ 7. Take a child into temporary custody as provided in section
20 8-821. Law enforcement officers shall cooperate with the department to
21 remove a child from the custody of the child's parents, guardian or custodian
22 when necessary.

23 ~~7-~~ 8. After investigation, evaluate conditions created by the
24 parents, guardian or custodian that would support or refute the allegation
25 that the child should be adjudicated dependent. The child protective
26 services worker shall then determine whether any child is in need of
27 protective services.

28 ~~8-~~ 9. Offer to the family of any child who is found to be a child in
29 need of protective services those services that are designed to correct
30 unresolved problems that would indicate a reason to adjudicate the child
31 dependent.

32 ~~9-~~ 10. Submit a written report of the worker's investigation to:

1 (a) The department's case management information system within
2 twenty-one days after receipt of the initial information except as provided
3 in section 8-811. If the investigation involves allegations regarding a
4 child who at the time of the alleged incident was in the custody of a child
5 welfare agency licensed by the department of economic security under this
6 title, a copy of the report and any additional investigative or other related
7 reports shall be provided to the board of directors of the agency or to the
8 administrative head of the agency unless the incident is alleged to have been
9 committed by the person. The department shall excise all information with
10 regard to the identity of the source of the reports.

11 (b) The appropriate court forty-eight hours before a dependency
12 hearing pursuant to a petition of dependency or within twenty-one days after
13 a petition of dependency is filed, whichever is earlier. On receipt of the
14 report the court shall make the report available to all parties and counsel.

15 ~~10.~~ 11. Accept a child into voluntary placement pursuant to section
16 8-806.

17 D. No child shall remain in temporary custody for a period exceeding
18 seventy-two hours, excluding Saturdays, Sundays and holidays, unless a
19 dependency petition is filed. If no petition is filed and the child is
20 released to the child's parent, guardian or custodian, the worker shall file
21 a report of removal with the central registry within seventy-two hours of the
22 child's release. The report shall include:

23 1. The dates of previous referrals, investigations or temporary
24 custody.

25 2. The dates on which other children in the family have been taken
26 into temporary custody.

27 E. The department shall provide child protective services workers who
28 investigate allegations of abuse and neglect with training in forensic
29 interviewing and processes, the protocols ~~developed~~ ESTABLISHED pursuant to
30 section 8-817 and relevant law enforcement procedures. All child protective
31 services workers shall be trained in their duty to protect the legal rights
32 of children and families from the time of the initial contact through

1 treatment. THE TRAINING SHALL INCLUDE KNOWLEDGE OF A CHILD'S RIGHTS AS A
2 VICTIM OF CRIME. The training for child protective services workers shall
3 also include instruction on the legal rights of parents and the requirements
4 for legal search and seizure by law enforcement officers.

5 F. In conducting an investigation pursuant to this section, if the
6 worker is made aware that an allegation of abuse or neglect may also have
7 been made in another state, the worker shall contact the appropriate agency
8 in that state to attempt to determine the outcome of any investigation of
9 that allegation.

10 G. Any person who alters a client file for the purpose of fraud or
11 misrepresentation is guilty of a class 2 misdemeanor.

12 Sec. 7. Section 8-807, Arizona Revised Statutes, is amended to read:

13 8-807. CPS information; public record; use; confidentiality;
14 violation; classification; definitions

15 A. CPS information shall be maintained by the department as required
16 by federal law as a condition of the allocation of federal monies to this
17 state. All exceptions for the public release of CPS information shall be
18 construed as openly as possible under federal law.

19 B. ~~If there is a reasonable need for the CPS information,~~ The
20 department, or a person who receives CPS information pursuant to this
21 subsection, shall provide CPS information to a federal agency, a state
22 agency, a tribal agency, a county or municipal agency, a ~~county attorney~~ LAW
23 ENFORCEMENT AGENCY, A PROSECUTOR, AN ATTORNEY OR A DESIGNATED REPRESENTATIVE
24 OF A CHILD VICTIM OF CRIME PURSUANT TO ARTICLE II, SECTION 2.1, CONSTITUTION
25 OF ARIZONA, a school, a community service provider, a contract service
26 provider or any other person that is providing services pursuant to this
27 chapter:

28 1. To meet its duties to provide for the safety, permanency and
29 well-being of a child, provide services to a parent, guardian or custodian or
30 provide services to family members to strengthen the family pursuant to this
31 chapter.

1 2. To enforce or prosecute any violation involving child abuse or
2 neglect, ~~including provision of the CPS information to a defendant after a~~
3 ~~criminal charge has been filed.~~

4 3. TO PROVIDE INFORMATION TO A DEFENDANT AFTER A CRIMINAL CHARGE HAS
5 BEEN FILED AS REQUESTED BY AN ORDER OF THE CRIMINAL COURT.

6 C. The department shall disclose CPS information to a court, a party
7 in a dependency or termination of parental rights proceeding or the party's
8 attorney, the foster care review board or a court appointed special advocate
9 for the purposes of and as prescribed in this title.

10 D. The department shall disclose CPS information to a domestic
11 relations, family or conciliation court if the CPS information is necessary
12 to promote the safety and well-being of children. The court shall notify the
13 parties that it has received the CPS information.

14 E. A person or agent of a person who is the subject of CPS information
15 shall have access to CPS information concerning that person.

16 F. The department:

17 1. May provide CPS information to confirm, clarify or correct
18 information concerning an allegation or actual instance of child abuse or
19 neglect that has been made public by sources outside the department.

20 ~~2. May provide and, on request, shall provide summary information~~
21 ~~regarding a fatality or near fatality caused by abuse or neglect.~~

22 2. SHALL PROMPTLY PROVIDE CPS INFORMATION TO THE PUBLIC, OR TO ANY
23 PERSON WHO REQUESTS ACCESS TO THIS INFORMATION, REGARDING A CASE OF CHILD
24 ABUSE OR NEGLECT THAT RESULTED IN A FATALITY OR NEAR FATALITY CAUSED BY
25 ABUSE, ABANDONMENT OR NEGLECT. THE DEPARTMENT SHALL PROMPTLY NOTIFY THE
26 COUNTY ATTORNEY OF ANY DECISION TO RELEASE CPS INFORMATION AND THE COUNTY
27 ATTORNEY SHALL PROMPTLY INFORM THE DEPARTMENT IF IT BELIEVES THAT RELEASE OF
28 THIS INFORMATION WOULD CAUSE A SPECIFIC, MATERIAL HARM TO A CRIMINAL
29 INVESTIGATION. THE DEPARTMENT SHALL PRODUCE AS MUCH INFORMATION ABOUT A
30 FATALITY OR NEAR FATALITY AS PROMPTLY AS POSSIBLE, AND ITS DUTY TO DISCLOSE
31 IS A CONTINUING DUTY.

1 3. May provide CPS information to a person who is conducting bona fide
2 research, the results of which might provide CPS information that is
3 beneficial in improving child protective services.

4 4. May provide access to CPS information to the parent, guardian or
5 custodian of a child if the CPS information is reasonably necessary to
6 promote the safety, permanency and well-being of the child.

7 G. Access to CPS information in the central registry shall be provided
8 as prescribed in section 8-804.

9 H. To provide oversight of child protective services, the department
10 shall provide access to CPS information to the following persons, if the CPS
11 information is reasonably necessary for the person to perform the person's
12 official duties:

13 1. Federal or state auditors.

14 2. Persons conducting any accreditation deemed necessary by the
15 department.

16 3. A standing committee of the legislature or a committee appointed by
17 the president of the senate or the speaker of the house of representatives
18 for purposes of conducting investigations related to the legislative
19 oversight of the department of economic security. This information shall not
20 be further disclosed **UNLESS A COURT HAS ORDERED THE DISCLOSURE OF THIS**
21 **INFORMATION OR THE INFORMATION IS OTHERWISE IN THE PUBLIC DOMAIN.**

22 4. A legislator who ~~is responsible for oversight of the enabling or~~
23 ~~appropriating legislation to carry out these functions~~ **REQUESTS CPS**
24 **INFORMATION IN THE REGULAR COURSE OF THE LEGISLATOR'S DUTIES.** This
25 information shall not be further disclosed **UNLESS A COURT HAS ORDERED THE**
26 **DISCLOSURE OF THIS INFORMATION OR THE INFORMATION IS OTHERWISE IN THE PUBLIC**
27 **DOMAIN.** To request a file pursuant to this paragraph:

28 (a) The legislator shall submit a written request for CPS information
29 to the presiding officer of the body of which the state legislator is a
30 member. The request shall state the name of the person whose case file is to
31 be reviewed and any other information that will assist the department in

1 locating the file. ~~The request shall also include the office of the~~
2 ~~department at which the legislator wants to review the file.~~

3 (b) The presiding officer shall forward the request to the department
4 within five working days of the receipt of the request.

5 (c) The department shall make the necessary arrangements for the
6 legislator to review the file at an office of the department, chosen by the
7 legislator, within ten working days.

8 (d) The legislator shall sign a form, **CONSISTENT WITH THE REQUIREMENTS**
9 **OF THIS PARAGRAPH AND PARAGRAPH 3 OF THIS SUBSECTION**, before reviewing the
10 file, that outlines the confidentiality laws governing child protective
11 services files and penalties for further release of the information.

12 5. A citizen review panel as prescribed by federal law, a child
13 fatality review team as provided in title 36, chapter 35 and the office of
14 ombudsman-citizen's aide.

15 ~~I. A person who is not specifically authorized by this section to~~
16 ~~obtain CPS information may petition a judge of the superior court to order~~
17 ~~the department to release that CPS information. The court shall balance the~~
18 ~~rights of the parties entitled to confidentiality pursuant to this section~~
19 ~~against the rights of the parties seeking release of the CPS information.~~
20 ~~The court may release otherwise confidential CPS information only if the~~
21 ~~rights of the parties seeking the CPS information and any benefits from~~
22 ~~releasing the CPS information sought outweigh the rights of the parties~~
23 ~~entitled to confidentiality and any harm that may result from releasing the~~
24 ~~CPS information sought.~~

25 **I. A PERSON WHO HAS BEEN DENIED CPS INFORMATION REGARDING A FATALITY**
26 **OR NEAR FATALITY CAUSED BY ABUSE, ABANDONMENT OR NEGLECT PURSUANT TO**
27 **SUBSECTION F, PARAGRAPH 2 OR SUBSECTION K OF THIS SECTION MAY BRING A SPECIAL**
28 **ACTION PURSUANT TO SECTION 39-121.02 IN THE SUPERIOR COURT TO ORDER THE**
29 **DEPARTMENT TO RELEASE THAT CPS INFORMATION. THE PLAINTIFF SHALL PROVIDE**
30 **NOTICE TO THE COUNTY ATTORNEY, WHO HAS STANDING AND MAY PARTICIPATE IN THE**
31 **ACTION. THE COURT SHALL REVIEW THE REQUESTED RECORDS IN CAMERA AND ORDER**
32 **DISCLOSURE CONSISTENT WITH SUBSECTION A, SUBSECTION F, PARAGRAPH 2 AND**

1 SUBSECTION K OF THIS SECTION. THE COURT SHALL TAKE REASONABLE STEPS TO
2 PROTECT THE PRIVACY AND DIGNITY OF CHILD VICTIMS OF CRIME.

3 J. THE DEPARTMENT OR A PERSON WHO IS NOT SPECIFICALLY AUTHORIZED BY
4 THIS SECTION TO OBTAIN CPS INFORMATION MAY PETITION A JUDGE OF THE SUPERIOR
5 COURT TO ORDER THE DEPARTMENT TO RELEASE CPS INFORMATION. THE PLAINTIFF
6 SHALL PROVIDE NOTICE TO THE COUNTY ATTORNEY, WHO HAS STANDING AND MAY
7 PARTICIPATE IN THE ACTION. THE COURT SHALL REVIEW THE REQUESTED RECORDS IN
8 CAMERA AND SHALL BALANCE THE RIGHTS OF THE PARTIES WHO ARE ENTITLED TO
9 CONFIDENTIALITY PURSUANT TO THIS SECTION AGAINST THE RIGHTS OF THE PARTIES
10 WHO ARE SEEKING THE RELEASE OF THE CPS INFORMATION. THE COURT MAY RELEASE
11 OTHERWISE CONFIDENTIAL CPS INFORMATION ONLY IF THE RIGHTS OF THE PARTIES
12 SEEKING THE CPS INFORMATION AND ANY BENEFITS FROM RELEASING THE CPS
13 INFORMATION OUTWEIGH THE RIGHTS OF THE PARTIES WHO ARE ENTITLED TO
14 CONFIDENTIALITY AND ANY HARM THAT MAY RESULT FROM RELEASING THE CPS
15 INFORMATION. THE COURT SHALL TAKE REASONABLE STEPS TO PROTECT THE PRIVACY
16 AND DIGNITY OF CHILD VICTIMS OF CRIME.

17 ~~J.~~ K. Except as provided in subsection ~~K~~ L of this section, before
18 it releases records under this section, the department shall take whatever
19 precautions it determines are reasonably necessary to protect the identity
20 and safety of a person who reports child abuse or neglect and to protect any
21 other person if the department believes that disclosure of the CPS
22 information would be likely to endanger the life or safety of ~~the~~ ANY person.
23 The department is not required by this section to disclose CPS information if
24 the DEPARTMENT DEMONSTRATES THAT disclosure would ~~compromise the integrity of~~
25 CAUSE A SPECIFIC, MATERIAL HARM TO a child protective services ~~or criminal~~
26 investigation. THE DEPARTMENT IS NOT REQUIRED BY THIS SECTION TO DISCLOSE
27 CPS INFORMATION IF, IN CONSULTATION WITH THE COUNTY ATTORNEY, THE COUNTY
28 ATTORNEY DEMONSTRATES THAT DISCLOSURE WOULD CAUSE A SPECIFIC, MATERIAL HARM
29 TO A CRIMINAL INVESTIGATION.

30 ~~K.~~ L. A person who is the subject of an unfounded report or complaint
31 made pursuant to this chapter and who believes that the report or complaint
32 was made in bad faith or with malicious intent may petition a judge of the

1 superior court to order the department to release the CPS information. The
2 petition shall specifically set forth reasons supporting the person's belief
3 that the report or complaint was made in bad faith or with malicious intent.
4 The court shall review the CPS information in camera and the person filing
5 the petition shall be allowed to present evidence in support of the petition.
6 If the court determines that there is a reasonable question of fact as to
7 whether the report or complaint was made in bad faith or with malicious
8 intent and that disclosure of the identity of the person making the report or
9 complaint would not be likely to endanger the life or safety of the person
10 making the report or complaint, it shall provide a copy of the CPS
11 information to the person filing the petition and the original CPS
12 information is subject to discovery in a subsequent civil action regarding
13 the making of the report or complaint.

14 ~~L.~~ M. The department shall provide the person who conducts a forensic
15 medical evaluation with any records the person requests, including social
16 history and family history regarding the child, the child's siblings and the
17 child's parents or guardians.

18 ~~M.~~ N. The department shall provide CPS information on request to a
19 prospective adoptive parent, foster parent or guardian, if the information
20 concerns a child the prospective adoptive parent, foster parent or guardian
21 seeks to adopt or provide care for.

22 ~~N.~~ O. If the department receives information that is confidential by
23 law, the department shall maintain the confidentiality of the information as
24 prescribed in the applicable law.

25 ~~O.~~ P. A person may authorize the release of CPS information about the
26 person but may not waive the confidentiality of CPS information concerning
27 any other person.

28 ~~P.~~ Q. The department may provide a summary of the outcome of a child
29 protective services investigation to the person who reported the suspected
30 child abuse or neglect.

31 ~~Q.~~ R. The department shall adopt rules to facilitate the
32 accessibility of CPS information.

1 ~~R.~~ S. The department may charge a fee for copying costs required to
2 prepare CPS information for release pursuant to this section.

3 ~~S.~~ T. A person who violates this section is guilty of a class 2
4 misdemeanor.

5 ~~T.~~ U. For the purposes of this section:

6 1. "CPS information" includes all information the department gathers
7 during the course of a child protective services investigation conducted
8 under this chapter from the time a file is opened and until it is closed.
9 CPS information does not include information that is contained in child
10 welfare agency licensing records.

11 2. "Near fatality" means an act that, as certified by a physician,
12 places a child in serious or critical condition.

13 Sec. 8. Title 8, chapter 10, article 1, Arizona Revised Statutes, is
14 amended by adding section 8-810, to read:

15 8-810. Restriction on services

16 NOTWITHSTANDING ANY LAW TO THE CONTRARY, THE DEPARTMENT SHALL NOT
17 PROVIDE ANY SERVICE TO A CHILD THAT IS PROVIDED IN A MANNER THAT VIOLATES AN
18 ORDER OF A CRIMINAL COURT IN A CASE THAT INVOLVES THAT CHILD OR THAT IS
19 CONTRARY TO THE PROTOCOLS IMPLEMENTED PURSUANT TO SECTION 8-817 FOR THE
20 INVESTIGATION OF ALLEGED CRIMINAL CONDUCT.

21 Sec. 9. Section 8-817, Arizona Revised Statutes, is amended to read:

22 8-817. Initial screening and safety assessment and investigation
23 protocols; investigations; disclosure of information

24 A. The department shall develop, ESTABLISH AND IMPLEMENT initial
25 screening and safety assessment protocols in consultation with the attorney
26 general and statewide with county attorneys, chiefs of police, sheriffs,
27 medical experts, victims' rights advocates, domestic violence victim
28 advocates and mandatory reporters. Any initial screening and safety
29 assessment tools shall be based on sound methodology and shall ensure valid
30 and reliable responses. The department shall establish written policies and
31 procedures to implement the use of the initial screening and safety
32 assessment protocols. PROTOCOLS ESTABLISHED PURSUANT TO THIS SUBSECTION

1 SHALL NOT BE INCONSISTENT WITH THE PROTOCOLS ESTABLISHED PURSUANT TO
2 SUBSECTION B OF THIS SECTION RELATING TO ALLEGATIONS OF CRIMINAL CONDUCT.

3 B. TO ENSURE THAT PERSONS WHO ARE ACCUSED OF CRIMES AGAINST A CHILD
4 ARE HELD APPROPRIATELY ACCOUNTABLE THROUGHOUT THE CRIMINAL JUSTICE PROCESS,
5 in each county, the county attorney, IN COOPERATION WITH the sheriff, the
6 chief law enforcement officer for each municipality in the county and the
7 department shall develop, ADOPT and implement protocols ~~for cooperation in~~ TO
8 GOVERN THE CONDUCT OF investigations of allegations involving ~~extremely~~
9 ~~serious~~ CRIMINAL conduct. The protocols shall include:

10 1. The process for notification of receipt of ~~extremely serious~~
11 CRIMINAL conduct allegations.

12 2. The standards for interdisciplinary investigations of specific
13 types of abuse and neglect, including timely forensic medical evaluations.

14 3. The standards for interdisciplinary investigations involving native
15 American children in compliance with the Indian child welfare act.

16 4. Procedures for sharing information AND STANDARDS FOR THE TIMELY
17 DISCLOSURE OF INFORMATION.

18 5. Procedures for coordination of screening, response and
19 investigation with other involved professional disciplines and notification
20 of case status AND STANDARDS FOR THE TIMELY DISCLOSURE OF RELATED
21 INFORMATION.

22 6. The training required for the involved child protective ~~service~~
23 SERVICES workers, law enforcement officers and prosecutors to execute the
24 investigation protocols, including forensic interviewing skills.

25 7. The process to ensure review of and compliance with the
26 investigation protocols and the reporting of activity under the protocols.

27 8. Procedures for an annual report to be transmitted within forty-five
28 days after the end of each fiscal year to the governor, the speaker of the
29 house of representatives and the president of the senate. THIS REPORT SHALL
30 BE A PUBLIC DOCUMENT AND SHALL INCLUDE:

31 (a) INFORMATION FROM EACH LAW ENFORCEMENT AGENCY AND FROM CHILD
32 PROTECTIVE SERVICES REGARDING THE NUMBER OF CRIMINAL CONDUCT ALLEGATIONS

1 INVESTIGATED AND HOW MANY OF THESE INVESTIGATIONS WERE CONDUCTED JOINTLY
2 PURSUANT TO THE INVESTIGATION PROTOCOLS ESTABLISHED PURSUANT TO THIS
3 SUBSECTION.

4 (b) INFORMATION FROM EACH COUNTY ATTORNEY REGARDING THE NUMBER OF
5 CASES PRESENTED FOR REVIEW, THE NUMBER OF PERSONS CHARGED AND THE DISPOSITION
6 OF THESE CASES.

7 (c) THE REASONS WHY A JOINT INVESTIGATION DID NOT TAKE PLACE.

8 9. Procedures for dispute resolution.

9 ~~C. The department, the appropriate county attorney and the appropriate~~
10 ~~law enforcement agency shall cooperate in the investigation of every~~
11 ~~extremely serious conduct allegation in accordance with the investigation~~
12 ~~protocols established pursuant to this section. Before it releases records~~
13 ~~it receives from the department pursuant to an investigation, the law~~
14 ~~enforcement agency shall take whatever precautions it determines are~~
15 ~~reasonably necessary to protect the identity and safety of a person who~~
16 ~~reports child abuse or neglect and to protect any other person the agency~~
17 ~~believes could be endangered by the disclosure of the CPS information. The~~
18 ~~law enforcement agency is not required to disclose CPS information if the~~
19 ~~disclosure would compromise the integrity of a child protective services or~~
20 ~~criminal investigation.~~

21 C. PURSUANT TO SUBSECTION B, PARAGRAPH 8 OF THIS SECTION, CHILD
22 PROTECTIVE SERVICES AND THE COUNTY ATTORNEY OF EACH COUNTY SHALL EACH
23 INDEPENDENTLY PREPARE AND SUBMIT A WRITTEN SUMMARY OF EACH INSTANCE OF
24 NONCOMPLIANCE IN A CRIMINAL INVESTIGATION WITH THE PROTOCOLS ESTABLISHED
25 PURSUANT TO THIS SECTION.

26 D. THE COUNTY ATTORNEY AND THE LAW ENFORCEMENT AGENCY SHALL COOPERATE
27 WITH THE DEPARTMENT PURSUANT TO THE INVESTIGATION PROTOCOLS ADOPTED PURSUANT
28 TO THIS SECTION. BEFORE IT RELEASES RECORDS IT RECEIVES FROM THE DEPARTMENT
29 PURSUANT TO AN INVESTIGATION, THE LAW ENFORCEMENT AGENCY SHALL TAKE WHATEVER
30 PRECAUTIONS IT DETERMINES ARE REASONABLY NECESSARY TO PROTECT THE IDENTITY
31 AND SAFETY OF A PERSON WHO REPORTS CHILD ABUSE OR NEGLECT AND TO PROTECT ANY
32 OTHER PERSON THE AGENCY BELIEVES COULD BE ENDANGERED BY THE DISCLOSURE OF THE

1 CPS INFORMATION. THE LAW ENFORCEMENT AGENCY IS NOT REQUIRED TO DISCLOSE CPS
2 INFORMATION IF THE DISCLOSURE WOULD COMPROMISE THE INTEGRITY OF A CHILD
3 PROTECTIVE SERVICES OR CRIMINAL INVESTIGATION. FOR THE PURPOSES OF THIS
4 SUBSECTION, "CPS INFORMATION" HAS THE SAME MEANING PRESCRIBED IN SECTION
5 8-807.

6 Sec. 10. Section 8-819, Arizona Revised Statutes, is amended to read:

7 8-819. Determination of neglect

8 In determining if a child is neglected, consideration shall be given
9 to:

10 1. The drug or alcohol abuse of the child's parent, guardian or
11 custodian.

12 2. The use by the mother of a dangerous drug, a narcotic drug or
13 alcohol during pregnancy if the child, at birth or within a year after birth,
14 is demonstrably adversely affected by this use. For the purposes of this
15 paragraph, "dangerous drug" and "narcotic drug" have the same meaning
16 prescribed in section 13-3401.

17 3. THE CHILD'S RIGHTS AS A VICTIM OF A CRIME PURSUANT TO ARTICLE II,
18 SECTION 2.1, CONSTITUTION OF ARIZONA, AS APPLICABLE, AND THE PROTOCOLS
19 ADOPTED PURSUANT TO SECTION 8-817.

20 Sec. 11. Section 8-821, Arizona Revised Statutes, is amended to read:

21 8-821. Taking into temporary custody; medical examination;
22 placement; interference; classification

23 A. A child shall be taken into temporary custody in proceedings to
24 declare a child a temporary ward of the court to protect the child, pursuant
25 to an order of the juvenile court on a petition by an interested person, a
26 peace officer or a child protective services worker under oath that
27 reasonable grounds exist to believe that temporary custody is clearly
28 necessary to protect the child from suffering abuse or neglect. If a child
29 is taken into temporary custody pursuant to this section, the child's sibling
30 shall also be taken into temporary custody only if reasonable grounds
31 independently exist to believe that temporary custody is clearly necessary to
32 protect the child from suffering abuse or neglect.

1 B. A child may be taken into temporary custody by a peace officer or a
2 child protective services worker if temporary custody is clearly necessary to
3 protect the child because probable cause exists to believe that the child is
4 either:

5 1. A victim or will imminently become a victim of abuse or neglect.

6 2. Suffering serious physical or emotional injury that can only be
7 diagnosed by a medical doctor or psychologist.

8 3. Physically injured as a result of living on premises where
9 dangerous drugs or narcotic drugs are being manufactured. For the purposes
10 of this paragraph, "dangerous drugs" and "narcotic drugs" have the same
11 meaning prescribed in section 13-3401.

12 ~~C. In determining if a child should be taken into temporary custody,~~
13 ~~the interested person, peace officer or child protective services worker may~~
14 ~~take into consideration as a mitigating factor the participation of the~~
15 ~~parent or guardian in the healthy families program established by section~~
16 ~~8-701.~~

17 ~~D.~~ C. In determining if a child should be taken into temporary
18 custody, the interested person, peace officer or child protective services
19 worker shall take into consideration:

20 1. As a paramount concern the child's health and safety ~~and shall~~
21 ~~consider as a mitigating factor the availability of reasonable services to~~
22 ~~the parent or guardian to prevent or eliminate the need for removal of the~~
23 ~~child and the effort of the parent or guardian to obtain and participate in~~
24 ~~these services.~~

25 2. Whether the parent is willing to participate in ANY services
26 ~~provided pursuant to section 8-830~~ THAT ARE OFFERED TO THEM.

27 3. IF A CHILD IS THE VICTIM OF ALLEGED CRIMINAL CONDUCT, WHETHER IT
28 CAN BE DEMONSTRATED THAT THE CHILD WILL NOT AGAIN BE THE VICTIM OF CRIMINAL
29 CONDUCT.

30 ~~E.~~ D. A person who takes a child into custody pursuant to subsection
31 B, paragraph 2 of this section shall immediately have the child examined by a
32 medical doctor or psychologist. After the examination the person shall

1 release the child to the custody of the parent or guardian of the child
2 unless the examination reveals abuse or neglect. Temporary custody of a
3 child taken into custody pursuant to subsection B, paragraph 2 of this
4 section shall not exceed twelve hours.

5 ~~F.~~ E. A child who is taken into temporary custody pursuant to this
6 article shall not be detained in a police station, jail or lockup where
7 adults charged with or convicted of a crime are detained.

8 ~~G.~~ F. A child shall not remain in temporary custody for more than
9 seventy-two hours excluding Saturdays, Sundays and holidays unless a
10 dependency petition is filed.

11 ~~H.~~ G. A person who knowingly interferes with the taking of a child
12 into temporary custody under this section is guilty of a class 2
13 misdemeanor."

14 Amend title to conform

JONATHAN PATON

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